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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,808	03/22/2004	Jeffrey R. Chalfant	36289US1	1072
116	7590	08/25/2006	EXAMINER	
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			A, PHI DIEU TRAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/805,808

Applicant(s)

CHALFANT, JEFFREY R.

Examiner

Phi D. A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-5,7,11-17,19-23,25,26 and 28-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2,4-5,7,11-14,16-17,19,22-23,25-26,28-33,37-38 is/are rejected.
- 7) ☒ Claim(s) 3,15,20,21,31 and 34-36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 4, 5, 7, 14, 26, 28-30, 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Layne (4213279).

Layne (figure 6) shows a seal system comprising at least one dock pad (11, 14, 15), the pad comprising a rigid backing material (16, wood, figure 6) having a front portion and a rear portion, a first foam layer (15) coupled to the rear portion of the backing structure to provide a seal between a building surface and the dock pad, a second foam layer (14) coupled to and extending from the front portion of the backing structure (16) to provide a seal between the dock pad and a vehicle, the second foam layer being thicker than the first foam layer, the thickness of each layer being measured by how far it extends substantially perpendicularly from the portion of the backing structure to which it is coupled (the perpendicular direction as shown in figure 6 being the vertical direction of part 14), at least one dock pad comprising a theft deterrence component (col 2 lines 30-33) which covers a substantial portion of the second foam layer, a cover (col 2 lines 30-33) substantially covers exposed portion of the at least one dock pad, at least one of the first and second foam layers comprising flexible foam, at least one mounting bracket (30) for coupling the at least one dock pad to the building, the bracket having one long leg and two short legs (30, figure 3), the system comprising a loading dock doorway, the doorway having a mounting surface (figure 3), the dock pad being mounted adjacent the

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mounting surface with at least the mounting bracket, the dock pad comprising a rigid back structure (16), the mounting bracket (30, 18) being attached directly to the backing structure, the first and second foam layer comprising a flexible cover, a second dock pad and a third dock pad, the first pad being mounted on a first side of the doorway, the second pad being mounted on a second side of the doorway, the third pad (14) being mounted above the doorway, the first dock pad further comprising a theft deterrence component (the cover) which covers a substantial portion of the second foam layer, the component being a chain link fence (inherently so per the make up of the screen material).

3. Claims 19, 22-23, 25, 37-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Ashelin et al (6272799).

Ashelin et al shows a seal system comprising at least one dock pad comprising a rigid backing structure (48), a foam layer (28), a theft deterrence component (30) at least partially made of metal and covering a substantial portion of the foam layer, a plurality of mounting brackets (48) to secure at least one dock pad to a building, each of the brackets forming a channel having one long leg and two short legs, the two short legs (58, 60) having different lengths, the longer of the two short legs having a length effective to provide clearance for a rib structure on a building surface (inherently capable of doing so), each of the brackets including a slot formed therein,

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Layne (4213279).

Layne shows all the claimed limitations except for the first and second foam layers having resilience from about +180F to about -50 F.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Layne's foam layer to show the first and second foam layers having a resilience from about +180F to about -50 F because it would have been an obvious matter of engineering design choice to choose the foam layers having the first and second foam layers having a resilience from about +180F to about -50 F as having the foam temperature range would enable a pad to properly function in the outside environment which can be very hot and very cold, and a designer having ordinary skill in the art would know to choose the foam having the temperature range as it ensures that the pad would be able to function properly outdoor; furthermore, applicant on pages 7-8 of the specification, discloses that any suitable density foam can be utilized and it reinforces the position that the claimed temperature range is a matter of engineering design.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Layne (4213279) in view of Etlar (2704574)

Layne shows all the claimed limitations except for at least one of the foam layers being constructed of three-stage foam.

Etlar shows a door seal pad made of multiple stages of foam material to provide for good strength and compression ratio.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Layne's foam layers to show at least one of the foam layers being constructed of three-stage foam because it would provide the pad with good strength and compression ratio for covering the back of a vehicle as taught by Etlar.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Layne (4213279) in view of Frommelt (4718207)

Layne shows all the claimed limitations except for the backing material being constructed from steel.

Frommelt discloses a backing material (10) comprise of any suitable material such as wood or steel or the like (col 3 line 41).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Layne's backing material being constructed from steel because steel and wood are equivalence material for forming the backing material as taught by Frommelt.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Layne (4213279).

Layne shows all the claimed limitations except for at least one mounting bracket being adjustable via a slotted aperture.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Layne's bracket having at least one slotted aperture for mounting the bracket (figure 3) to the wall because it is well known in the art that slotted aperture provides for easy mounting of brackets to a substrate as it allows for easy alignment of the bracket.

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Layne (4213279) in view of Frommelt et al (3230675).

Layne shows all the claimed limitations except for the at least one dock pad having a plurality of pleats.

Frommelt et al shows at least one dock pad having a plurality of pleats (7, 14) to bear the brunt of wear and tear occurring when the truck is loaded or unloaded or is backed against or driven away from the pads (col 2 lines 47-50).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Layne's pad to show a plurality of pleats because the pleats would provide further protection for the pad against tear and wear caused by trucks when loading and unloading and backing against and driven away from the pads as taught by Frommelt et al.

Allowable Subject Matter

10. Claims 3, 15, 20-21, 31, 34-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments with respect to claims 1-5,7,11-17,19-23,25-26,28-38 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

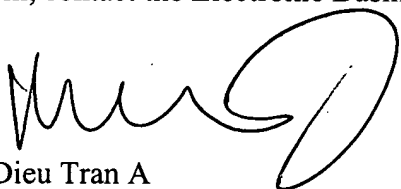
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different dock pad device.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Phi Dieu Tran A', with a large, stylized loop at the end.

Phi Dieu Tran A

8/21/06